THE HON'BLE MRS JUSTICE T.MEENA KUMARI
&
THE HON'BLE MR JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.12232 OF 2007

Dated: 14.06.2007

Between:

1. The State of A.P., rep., by its Secretary to Government
   Irrigation and CAD dept., Secretariat, Hyderabad and others.

..Petitioners

And

1. B. Satyanarayana and others

.. Respondents.

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THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.12232 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This is a writ petition filed by the petitioners challenging the order, dated 01.03.2007 passed by the A.P. Administrative Tribunal in O.A.No.3653 of 2000.

The respondents herein are the applicants before the Tribunal.

Originally, the respondents-applicants filed the above O.A., seeking to call for the records relating to Proceedings No.1189/ GL/E. Mis.386, dated 22.11.1997 and the consequential Government Memo No.39605/Ser.VII.1/98-6, dated 9.6.2000 and the consequential proceedings No.552/GL/E. Mis.386 (Part), Dated 30.6.2000 and quash the same and further to declare the impugned action of the respondents in effecting recovery contrary to the interim orders dated 14.7.2000 as illegal, bad and arbitrary and further declare that the applicants are entitled for Special Grade Scales on completion of 8 years service in the Senior Assistant cadre w.e.f. 9.5.1994 and accordingly, revise the pension and other retiremental benefits.

It is the case of the applicants that during their service, in the years 1994 and 1995, they along with some others were appointed in the Special Grade Post Scales of Rs.2315-4800 on completion of eight years of service in the category of Senior assistants w.e.f. 9.5.1994 forenoon etc., and subsequently, by the proceedings dated 22.11.1997 issued by the 4th respondent, their earlier appointments on completion

of 8 years in the Special Grade Post Pay scale were cancelled and in pursuance thereof, the 1st respondent issued proceedings dated 30.6.2000 directing recovery of the excess pay and allowances drawn by the applicants.

At this juncture, it is pertinent to note that pending the O.A., the tribunal passed interim orders directing the respondents-authorities not to make any recovery and also directing them to make future payments, only, in accordance with the impugned orders. The respondents-authorities filed vacate petition. While so, during the pendency of the O.A. as well as the vacate stay petition, all the applicants retired from service and consequently, from their retirement benefits, the excess amount of pay and allowances paid to them was recovered.

The Tribunal having observed that the respondents-authorities have recovered the excess amount from the applicants, in defiance of the interim direction and therefore, the action of the respondents is illegal, granted the relief as sought for in the O.A. and directed the respondents to refund to each of the four applicants forthwith, the amounts recovered from their Gratuity amounts and the amount of encashment of Earned Leave as the case may be, with simple interest at 12% per annum from the date of such recoveries till the payment is made and granted time for a period of 45 days to comply with the above directions. Having aggrieved by the same, the present writ petition is preferred by the respondents-authorities.

The learned Government Pleader for Services II contends that the applicants while working as Senior Assistants, were allowed to Special Grade Post scale benefit on completion of 8 years incremental service in the category of senior Assistants w.e.f. 9.5.1994 in terms of G.O.Ms.No.290 F & P, Department, dated 22.7.1993 and

subsequently, the Government issued orders in G.O.(P)No.75 F & P Dept., dated 22.2.1994 rectifying certain anomalies cropped up due to introduction of 22 years scale (SPP-II) in automatic Advancement Scheme and that in implementation of the said G.O., the authorities noticed certain irregularities in respect of the applicants and that the applicants herein enjoyed both the benefits of stepping up of scale as well as stepping up of pay, which is not contemplated under the spirit of G.O.(P) No.75, dated 22.2.1994 and that on pointing out such irregularities by the audit party of accountant, the petitioners-authorities were advised to recover the excess amount paid to the applicants. It is further contended that as it will be very difficult to recover excess payment after retirement of the applicants, the excess amount was recovered from out of the retirement benefits.

We have perused the entire material available on record.

A perusal of the material on record as well as the order impugned goes to show that in spite of the restraint order, the authorities recovered the excess amounts from the retiral benefits of the applicants and the same would amount to contemptuous.

At this stage, the learned Government Pleader contended that it is difficult to them to comply with the order of the Tribunal passed in the O.A. within a short span of time i.e., 45 days and therefore, the time may be extended to comply with the said order.

Under the above facts and circumstances and in view of the submission of the learned Government Pleader, We have no hesitation to hold that the order of the tribunal needs no interference and the writ petition is devoid of merits and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. However, the petitioners-authorities are at liberty to approach the tribunal for extension of time to comply with the order impugned herein, if they so

desire, within a period of two weeks from the date of receipt of a copy of the order.

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date: 14.06.2007
Nn/gurc

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.12232 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

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Dated: 14.06.2007